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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/566,639

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Michael R. Bonner

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03/22/2011

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EXAMINER

LEO, LEONARD R

ART UNIT

PAPER NUMBER

3785

MAIL DATE

DELIVERY MODE

03/22/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/566,639	Applicant(s) BONNER, MICHAEL R.	
	Examiner Leonard R. Leo	Art Unit 3785	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7,9-18,21-23,25-29 and 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23,25,26,29 and 33 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,9-18,21,22,27 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 21, 2011 has been entered.

Claims 30 and 32 are cancelled, and claims 1-2, 4-7, 9-18, 21-23, 25-29 and 33 are pending.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “sensor” in claims 11 and 29 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 7 and 14 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Regarding claim 7, the recitation “said reinforcement member disposed on said first wall” in lines 3-4 does not further limit the recitation “a tab projecting outward from the first opposed wall” in claim 1, line 10. As further explained in the rejection of claim 1 under 35 U.S.C. 112, second paragraph, below, the integral reinforcement member and tab must be located on the same wall.

Regarding claim 14, the recitation “said reinforcing member is **disposed within the interior** of said temperature control conduit” does not further limit the recitation “a relatively rigid elongated reinforcement member **positioned ... and projecting inwardly into** the temperature control conduit” in claim 1, lines 8-10.

Claim 25 objected to because of the following informalities: the recitation “comprises” in line 2 should read -- comprises --. Appropriate correction is required.

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Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 11 and 29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification lacks an adequate written description of the invention. There is no basis for “a sensor ... for detecting the **pressure** of said temperature control fluid” as recited in claims 11 and 29.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-2, 4-7, 9-16 and 27-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the recitation “a relatively rigid elongated reinforcement member positioned **in one of the first and second walls** and projecting inwardly into the temperature control conduit, and a tab projecting outward **from the first opposed wall**” in lines 8-10 is indefinite, when the “reinforcement member is positioned **in the second wall**.” As disclosed, the tab 14 and reinforcement member 16 are integral with one another.

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Regarding claim 9, it is unclear whether an additional “tab” is being recited or the “tab” in claim 1 has an “elongated generally planar” shape.

Claim 16 recites the limitation “said first conduit” in line 2. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 27, it is unclear whether an additional “tab” is being recited or the “tab” in claim 23 has an “elongated generally planar” shape.

Claim Rejections - 35 USC § 103

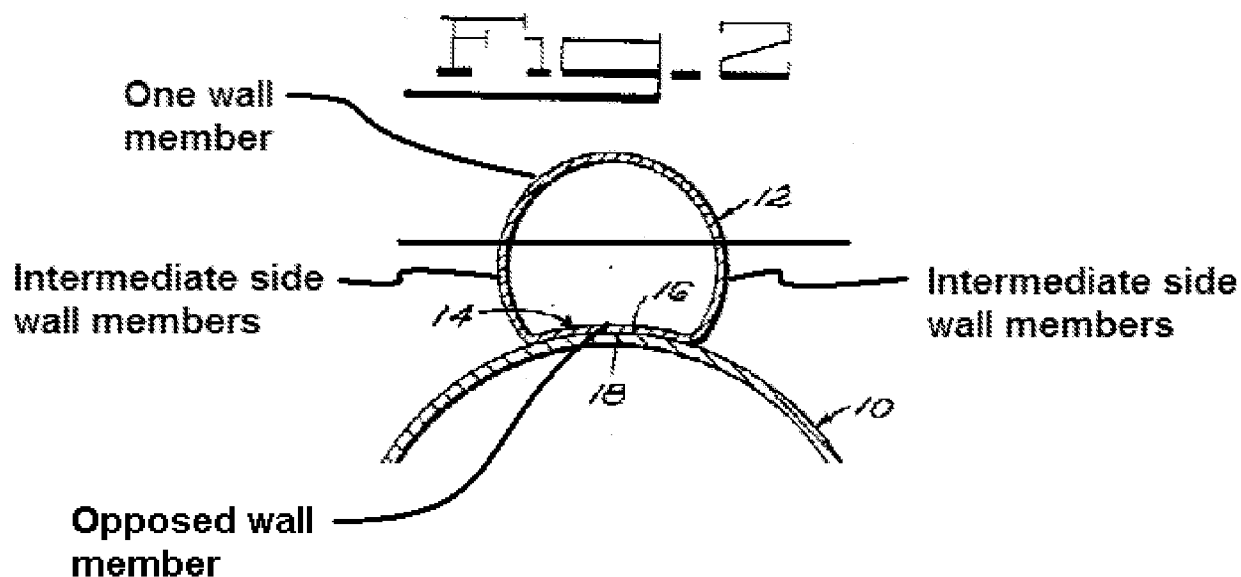
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-18 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collito in view of Knoll.

Collito (Figure 2, marked up, next page) discloses a conduit assembly comprising two conduit members 12 having an elongate, flexible fluid-tight wall having at least two opposed wall members, one wall member has a convex outer surface, an opposed wall member has a concave outer surface 16 and intermediate side wall members (i.e. delineated by the line) interposed there between;, defining a non-circular cross section; but does not disclose a polymeric material and a rib/tab.

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Knoll (Figure 2A) discloses an elongated conduit 1 comprising a flexible fluid-tight wall having an internal channel with a non-circular cross section and at least two opposed wall members with an axially and radially inwardly extending rib/tab 2 for the purpose of maintaining structural integrity and promoting turbulence for heat transfer.

Since Collito and Knoll are both from the same field of endeavor and/or analogous art, the purpose disclosed by Knoll would have been recognized in the pertinent art of Collito.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Collito a rib/tab for the purpose of maintaining structural integrity and promoting turbulence for heat transfer as recognized by Knoll.

It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. Thus, to employ a conduit composed of a polymeric requires only

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routine skill in the art. Inherently, the physical property of polymeric materials are flexible and would provide a conduit being inflatable by a fluid.

Regarding claim 21-22, Figure 2 of Collito discloses the first and second walls are arcuate.

Allowable Subject Matter

Claims 1-2, 4-7, 9-16 and 27-28 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 23, 25-26, 29 and 33 are allowed.

Response to Arguments

The objection to claim 8 under 37 CFR 1.75(c) is withdrawn in view of the claim cancellation.

The rejection of claim 15 under 35 U.S.C. 112, second paragraph, is withdrawn in view of the claim amendment.

The objection to the drawings under 37 CFR 1.83(a) is maintained. The “sensor” in claims 11 and 29 are not shown in the drawings. Applicant’s specification discloses the feature is not depicted.

The rejection of claims 11 and 29 under 35 U.S.C. 112, first paragraph, is maintained. The Examiner acknowledges the claims, as originally filed, are part of the disclosure. However, the specification discloses sensors for detecting leakage, but does not disclose “a sensor ... for detecting the **pressure** of said temperature control fluid.”

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Applicant's arguments have been fully considered but they are not persuasive.

Regarding applicant's remarks with respect to the combination of Collito and Knoll, the device of the combination structurally meets the limitations of the claim except a polymeric material. With respect to the case law, *In re Leshin*, it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. For example, if the working fluids employed are corrosive to metal materials, one of ordinary skill in the art would employ a known material resistant to corrosion. The Examiner acknowledges that heat transfer properties of the conduit material are a consideration, but are not a sole factor in determining the suitability of a conduit material. Strength, corrosion resistance, cost effectiveness, manufacturability are among many other factors that one of ordinary skill in the art would consider.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonard R. Leo whose telephone number is (571) 272-4916. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/ Leonard R. Leo /
PRIMARY EXAMINER
ART UNIT 3785

March 18, 2011